

# **Task Force on the Future for Growth and Development in Maryland**

**February 1, 2010/1:00 p.m. to 4:00 p.m.**

**Banneker-Douglass Museum**

**Annapolis, Maryland**

## **Meeting Summary**

*Members:* Jon Laria, Derick Berlage, Jennifer Bevan-Dangel (for Dru Schmidt-Perkins) David Carey, Sandy Coyman, John Dillman, Jan Gardner, Carol Gilbert, Richard Hall, Don Halligan, Frank Hertsch, Brigid Kenney, Gerrit Knaap, Jeanette Ortiz (for Asuntha Chiang-Smith)

*Attendees:* Marty Baker, Tom Ballentine, Frank Biba, Jamie Bridges, Candace Donoho, Tom Farasy, Alan Girard, LaAndra Jones, Tommy Landers, Katie Maloney, Vanessa Orlando, Ken Pensyl, Elliot Powell, Jacque Rouse, Colleen Ruhter, Jay Sakai, Caroline Varney-Alvarado

*MDP Staff:* John Coleman, Amanda Conn, Nicole Diehlmann, Roz Hamlett, Rich Josephson, Jenny King, John Leocha, Shannon Marino, Matt Power, Pat Russell

### **Welcome/Administrative Matters**

The Chair, Jon Laria, opened the meeting at 1:10 p.m., noting that meeting dates for “2010” have been listed on this agenda. The March 8<sup>th</sup> meeting will be held at the Banneker-Douglass Museum. All other meetings will be held in Baltimore at the Maryland Department of Planning. Mr. Laria said that anyone having any questions regarding any of the dates should let Ms. King know.

Mr. Laria said he will be talking with workgroups within the next week or so and hopes to have a written work plan for the March meeting.

### **PlanMaryland Update**

Mr. Josephson thanked everyone for sending in their comments which have been incorporated. He noted that the outreach activities and planning for several upcoming forums, beginning in March are in process. Several sites have been identified and will include Central Maryland, the Eastern Shore and Western Maryland. The purpose is to introduce people to PlanMaryland. Mr. Laria referred to the PlanMaryland Survey included in today’s handouts. He noted the survey effort was started on MDP’s website in response to Ms. Gardner’s suggestion at the beginning of December 2009. Mr. Josephson said the survey will help to form a framework in talking with folks later. Over 170 responses were received. A sampling of the responses flashed on the screen during the Sustainable Communities Advocacy event last week.

Mr. Coleman noted comments are general and constructively critical.

Mr. Laria said we need to look at the statutory rule in the development of this Plan; also need to continue to work with everyone on this effort.

### 2010 Legislation

Ms. Conn briefed everyone on SB 278/HB 474 which repeals the former language of the Task Force and establishes a new name – the Maryland Sustainable Growth Commission. The bill states that this Commission will exist for a period of 10 years. Three additional members were added – DNR, MSDE, and DBED. Also bill includes five regional representatives. All members would have a five year term and the Governor would appoint the Chair and Vice Chair. The Task Force currently sunsets December 2010. Ms. Conn reviewed the charge of the Commission saying that the current charge is time sensitive and the new charge considers what we want to look at over the next 10-year period.

Mr. Laria said he is satisfied with the bill and feels the “charge” is a good one. He said he is grateful to the Governor and the administration for their interest in this. He noted that the State needs a forum for these kinds of discussions and felt that the recent Stormwater Forum was a very good example of this.

Mr. Dillman asked about the relationship to the Governor’s Smart Growth Subcabinet, created during the Glendening administration. Secretary Hall responded that there is a definite parallel between the two; and also felt the Task Force is a good sounding board to the Subcabinet.

### Revitalization Workgroup Final Report/SB285- The Sustainable Communities Act of 2010

Mr. Hall gave a brief overview of SB 285 – The Sustainable Communities Act of 2010. This bill reestablishes and reauthorizes the Maryland Heritage Tax Credit Program. He noted that the Governor is committed to this effort and broadening this program. Secretary Hall said that there were at least 200 people attending the Sustainable Communities event last week. He said this parallels some efforts at the federal level.

Mr. Hall advised that there will be a hearing on SB 285 on February 17<sup>th</sup> with the Senate Budget & Taxation Committee. He advised that some members may be contacted to attend.

Mr. Laria commended everyone for their work and his gratitude to the historic preservationists. He said this is a good opportunity for a couple of the State departments to coordinate their efforts with regard to the Sustainable Communities bill.

Ms. Gilbert distributed copies of the Revitalization Workgroup final report “Sustainable Maryland-Accelerating Investment in the Revitalization and Livability of Maryland’s Neighborhoods” and discussed its recommendations. Mr. Laria requested a one-page summary of best practices that can be derived from the report so that we move those recommendations

forward. Ms. Gilbert agreed and noted that the Revitalization Workgroup should continue to meet.

Mr. Hall asked roughly how many of the recommendations made their way into the bill. Ms. Gilbert responded that the concept of bringing many agencies under one umbrella was an overarching point of the report which subsequently became the organization of the Sustainable Communities bill.

Mr. Halligan noted that MDOT could use DHCD's programs to help plan and identify areas so that MDOT can then use that information to inform its project planning.

Ms. Kenney asked for the clarification related to PFAs and the coverage of these programs. Ms. Gilbert responded that all are all ready in PFAs.

Mr. Knaap asked if this is how the bill is constructed, what is the difference? Ms. Gilbert noted that sites and projects with the earlier designations will have 18 months to obtain designation as sustainable communities.

Mr. Hall explained that the bill builds on existing programs. Mr. Halligan stated that there is more need than money and the bill is a way to help us prioritize better.

#### Conflicts/Inefficiencies Survey

Mr. Hertsch noted that a printed version of a draft electronic survey was in the meeting handouts. The purpose of the survey is to gauge reaction to the conflicts but to also try and uncover additional issues. He requested that comments be forwarded to Jenny King or John Leocha by February 15, 2010.

#### Stormwater Management Forum

Mr. Laria noted that the Forum held January 15<sup>th</sup> was attended by over 200 people. He explained that he had no formed conclusions and that there are many different perspectives. He did note that stormwater management has become a really issue and that there is a lot of information. He explained that he along with Bob Summers, Deputy Secretary of the Maryland Department of the Environment, briefed the House Environmental Matters Committee on January 26<sup>th</sup>. Chairwoman McIntosh essentially said that 30 days should give ample time to determine if there is a compromise. MDE noted that there is already a lot of flexibility in the regulations to address grandfathering and redevelopment projects. Chairwoman McIntosh, however, was interested in how this actually would be implemented. MDE is working on guidance to explain this.

Ms. Bevan-Dangel explained that she heard confusion at the Stormwater Management Forum. Stormwater management is not a question of smart growth versus stormwater management. She further noted that flexibility is at the crux of the issue.

Ms. Gardner discussed how stormwater management is an example of trying to balance competing interests. She felt that the 2000 stormwater management regulations have not had

ample time to work. She felt that there has not been enough “science talk” and that grandfathering must be addressed. She suggested that the flexibility for off-site improvements could be challenging because someone must let you use their land. Additionally, the maximum extent practical is hard to enforce and keep it consistent. She noted that some redevelopment may not happen and that meeting the May 4<sup>th</sup> deadline is not practical.

Mr. Hertsch explained that when regulations change mid-way through the development process it causes major delays. For example, it can take years to get a wetland permit. When a development is started the developer needs to rely on the approvals received.

Mr. Carey stated that 50% for stormwater management in an established town is too much. He asked if the 50% was arbitrary and stated that grandfathering must be in the regulations. He stated that fee-in-lieu is a great idea in redevelopment areas but there is simply just no land to do it.

Mr. Coyman asked that grandfathering be addressed and proposed solutions to the fundamental issues.

Ms. Gilbert felt that the Forum presentations were interesting. She does not know enough about stormwater however, to know if they were extreme examples. She was struck by the Hyattsville example and the onerous, cost prohibitive solutions. She also expressed concern for the increased code enforcement for the local governments.

Mr. Berlage stated that there is no doubt that on-site stormwater management is where we need to get to; however changing the regulations may be too fast. He felt that the change from 20 to 50% imperviousness was too much and questioned how that number was decided.

Ms. Kenney stated that MDE is digesting the Forum. She noted that many of the presenters only presented the strict compliance approach which led to a loss in density or drove up the project cost. She felt that the presentations demonstrated no real effort to take advantage of the flexibility in the statute and that a majority of the projects could meet the regulations. The Forum made it clear that MDE’s guidance had not been clear to date and that they are working hard to fix this.

Mr. Dillman wondered how property values will be affected by the regulations and if the May 4<sup>th</sup> deadline is practical.

Mr. Girard, Chesapeake Bay Foundation, recapped the January 26<sup>th</sup> Environmental Matters Committee briefing and noted that the intent is to not hurt redevelopment efforts. He felt that Chairwoman McIntosh wanted to give MDE 30 days so it has time to do its work. He noted that the questions Mr. Laria mentioned were the same questions that were considered during the writing of the regulations. He felt that MDE needed to be afforded the time to finish its guidance.

Mr. Tommy Landers, Environment Maryland, stressed the need for a healthy environment and a healthy built environment.

Ms. Katie Maloney, MD Homebuilders stated that there are concerns with flexibility in redevelopment and the lack of grandfathering. She stated that when the regulations were drafted in 2008 the MD Homebuilders were assured that the regulations and the model ordinance would address grandfathering. They also had concerns about the redevelopment policy and that adequate grandfathering is in place for the development process.

Mr. Farasy, President, MD Homebuilders, discussed the Hyattsville Metro Station project. He stated that the new regulations would add a ½ million more to the project and they would have to reduce the building footprint. He explained that Philadelphia has a 20% impervious regulation and a 100% credit for green roofs. They also have a specific department you can go to and reach an agreement up front before the development is fully underway.

Ms. Candace Donoho, Maryland Municipal League, noted the close relationship between the building community and the Environmental Matters Committee. She said that the League was trying to buy into the science but is hopeful that the Task Force will get to the bottom of these issues.

Mr. Jay Sakai, MDE, expressed his thanks for a good discussion. He noted that the TF will have to answer some of the questions because MDE cannot answer all of them. He said that MDE has been in this process for 2 ½ years and during that time they wrestled with redevelopment and the implementation schedule. He said that local government is a part of this as the flexibility determination rests with them. The flexibility will be clarified in the guidance MDE is working on. He said that the 2000 stormwater management regulations were the first time that there were ever stringent requirements. He felt that it would be helpful if the Task Force could track the new stormwater management regulations over time. Currently there are 13 stormwater ordinances approved.

Mr. Laria asked how does the flexibility manifest itself, what is actually going to happen?

Mr. Berlage asked again how the 50% imperviousness was arrived at. Mr. Sakai stated that it was not derived from any scientific study, 50% is reasonable. Mr. Berlage asked where the 50% came from. Mr. Sakai stated that 50% was the benchmark MDE decided on. Mr. Ken Pensyl, MDE, noted that Carroll County is already at 50%.

Mr. Farasy noted that Montgomery County was at 100% but there were a number of credits available.

Mr. Berlage stated that Montgomery County has the ability to pile costs on developers because it is Montgomery County. He stated that municipalities cannot accommodate the 50%.

Ms. Gardner asked Mr. Sakai what the task was for the next 30 days per Environmental Matters. Mr. Sakai responded that the task was to issue guidance to jurisdictions about the flexibility and grandfathering. This will also include local code flexibility and bonding/financing concerns.

Ms. Gardner felt that greater MDE input might create a real challenge for implementation. Mr. Sakai said local jurisdictions have exercised discretion under their stormwater ordinances and could continue to do that.

Mr. Dillman noted that flexibility is o.k. but you must codify limits or else we will be in court.

Mr. Laria directed the Task Force to communicate all of its concerns to MDE. He reminded all that they were not a voting body and that they would continue to engage in this dialogue.

Mr. Berlage asked when the guidance would be available and he was told shortly.

The meeting adjourned at 4:37 pm.

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